

JUDGE SAND

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : INFORMATION

-v.- : 08 Cr. _____ (LBS)

GWENERVA D. CHERRY,

08 CRIM 141

Defendant. :

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COUNT ONE

(Embezzlement Against Estate)

The United States Attorney charges:

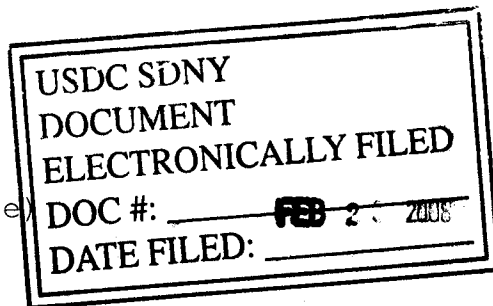
BACKGROUND

1. Starting in or about 1991 and continuing until approximately early 2007, GWENERVA D. CHERRY, the defendant, was a lawyer admitted to practice in the State of New York.

2. On or about June 16, 2004, GWENERVA D. CHERRY, the defendant, acting as its attorney, filed a Voluntary Petition for Bankruptcy in the United States Bankruptcy Court for the Southern District of New York, on behalf of St. Stephens Partnership ("St. Stephens Partnership"). Prior to its bankruptcy, the business of St. Stephens Partnership was to take title to real properties owned by St. Stephens Church.

3. From in or about March 2005 through in or about April 2005, St. Stephens Partnership sold approximately five separate parcels of real estate. The net proceeds of the sales of these parcels of real estate that should have been realized by

JUDGE SAND



St. Stephens Partnership were not less than approximately \$387,121.98.

4. On or about October 11, 2005, GWENERVA D. CHERRY, the defendant, acting as its attorney, filed a Voluntary Petition for Bankruptcy in the United States Bankruptcy Court for the Southern District of New York on behalf of 202 Restaurant LLC ("202 Restaurant"). Prior to its bankruptcy, the business of 202 Restaurant was operating a restaurant located on Ninth Avenue in Manhattan.

5. On or about April 4, 2006, 202 Restaurant sold a parcel of real estate. The net proceeds of the sale of the parcel of real estate that should have been realized by 202 Restaurant were not less than approximately \$55,213.25.

THE EMBEZZLEMENTS BY CHERRY

6. GWENERVA D. CHERRY, the defendant, received the proceeds of the real estate transactions referred to in paragraph 3, above, on behalf of St. Stephens Partnership, but did not transfer these proceeds to St. Stephens Partnership. Instead, CHERRY misappropriated to her own use the proceeds of the sales of real estate by St. Stephens Partnership, by withdrawing the proceeds from her attorney escrow account.

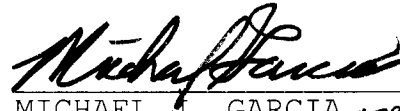
7. GWENERVA D. CHERRY, the defendant, received the proceeds of the real estate transaction referred to in paragraph 5, above, on behalf of 202 Restaurant, but did not transfer these proceeds to 202 Restaurant. Instead, CHERRY misappropriated to her own use the proceeds of the sale of real estate by 202 Restaurant by withdrawing the proceeds from her attorney escrow account.

STATUTORY ALLEGATIONS

8. From in or about 2005 through in or about 2006, in the Southern District of New York, GWENERVA D. CHERRY, the defendant, being a person who had access to property and documents belonging to the estate of a debtor by virtue of her participation in the administration of the estate as a trustee, custodian, marshal, attorney, and other officer of the court and as an agent, employee, and other person engaged by such officer to perform a service with respect to the estate, unlawfully, willfully, knowingly, and fraudulently did appropriate to her own use, embezzle, spend, and transfer property belonging to the estate of a debtor, to wit, CHERRY, being the attorney for the debtor in the bankruptcy cases In re St. Stephens Partnership, Case No. 04-14159, and In re 202 Restaurant LLC, Case No. 05-45185 (collectively, the "Estates"), both of which were pending in the United States Bankruptcy Court for the Southern District of New York, did appropriate to her own use, embezzle, spend, and

transfer the net proceeds of sales of real estate by the Estates
in the amount of at least approximately \$442,335.23.

(Title 18, United States Code, Sections 153 and 2.)

A handwritten signature in black ink, appearing to read "Michael J. Garcia", written over a horizontal line.

MICHAEL J. GARCIA *SSR*
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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-v.-

GWENERVA D. CHERRY,

Defendant.

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(Title 18, United States Code,
Sections 153 and 2.)

MICHAEL J. GARCIA
United States Attorney.

pk

February 20, 2008 - Defendant signs Waiver of Indictment.

February 20, 2008 - Information filed. - AUSA Daniel Levy present.

February 20, 2008 - Defendant Cherry present with attorney Steven Statsinger
Federal Defender Court.

Defendant is arraigned on the one count Information & pleads not guilty as charged. With consent of Gov't defendant is released on own recognizance (R.O.R.). Def't to surrender passport by Monday 2/25/08. Arraignment to 2/25/08 at 12 Noon for likely plea.

Sand. J